IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MEG HENSON SCALES, Plaintiff, vs. CHAUNESTI WEBB and MANBITES DOG THEATER COMPANY, Defendants.	)	Civil Action No. 15-cv-00192

COMPLAINT FOR COPYRIGHT INFRINGEMENT AND JURY DEMAND

Plaintiff Meg Henson Scales alleges as follows:

NATURE OF THE ACTION

1. This case is about a writer who plagiarized other people's work to launch her own career. Defendant Chaunesti Webb unlawfully copied passages from Plaintiff Meg Henson Scales' copyrighted essay "Tenderheaded" into her first play, *I Love My Hair*, passing them off as her own. The entire final scene consisted of unattributed excerpts from "Tenderheaded," and many other passages were directly lifted without attribution. In 2012, along with Defendant Manbites Dog Theater Company, she staged a run of public performances of *I Love My Hair*, in which actors recited Henson Scales' copyrighted expressions in front of sell-out audiences. In 2014, she staged a revival of *I Love My Hair* at Manbites Dog, which also sold out on several nights. Both in 2012 and

in 2014, Webb was credited as the sole author, and Henson Scales was not mentioned.

2. On information and belief, Webb also submitted *I Love My Hair*, including the passages she copied from Henson Scales, as part of a thesis portfolio for which she was awarded the degree of Master of Fine Arts.

3. In an email to Henson Scales after her copying was discovered, Webb mentioned her "training in ways of devising work using found text." Henson Scales' essay was not a "found text": it was a copyrighted work, into which Henson Scales had put thought and effort. Webb's use of it was not only plagiarism, it was copyright infringement.

JURISDICTION AND VENUE

4. This Court has federal question jurisdiction under 28 U.S.C. § 1338.

5. This Court has personal jurisdiction over Defendant Webb because she resides in Durham, North Carolina.

6. This Court has personal jurisdiction over Defendant Manbites Dog because it has its principal place of business in Durham, North Carolina.

7. Venue is proper in the Middle District of North Carolina under 28 U.S.C. § 1391(b) because Defendants reside in the District, and because a substantial part of the events and omissions giving rise to Henson Scales' claim occurred in the District.

THE PARTIES

8. Plaintiff Meg Henson Scales is an award-winning author of short stories and non-fiction essays. She lives in New York City.

9. Defendant Chaunesti Webb is a writer. She serves on the Board of Directors of Defendant Manbites Dog Theater Company. She lives in Durham, North Carolina.

10. Defendant Manbites Dog Theater Company is a non-profit corporation organized under the laws of North Carolina. Its registered office is 703 Foster St, Durham, North Carolina.

FACTUAL ALLEGATIONS

2001: Henson Scales Publishes Essay "Tenderheaded"

11. In 1995, Meg Henson Scales wrote an essay entitled "Tenderheaded: Or, Rejecting the Legacy of Being Able to Take It." A copy of the essay is attached to this Complaint as Exhibit A. In the essay, Henson Scales begins with a question African-American girls are often asked before they have their hair styled: "Are you Tenderheaded?" Henson Scales frames this question and its inevitable answer, "No, I'm not Tenderheaded"— the "denial of sensation in the head and neck"—as the first stage of the child's evolution into what she calls a "strongblackwoman," a pain-enduring, self-denying "anti-hero" who is "culturally valued in direct proportion to her personal sacrifice." Drawing ironically on her childhood memories and on the history of the Civil Rights movement, Henson Scales criticizes the model of "strongblackwomanhood," and calls for the adoption of an alternative ideal—"Tenderheadedness"—to "bury the mythological strongblackwoman expectation."

12. In 2001, Henson Scales' essay was published for the first time by Simon &

Schuster as the title essay in the anthology *Tenderheaded: A Comb-Bending Collection of Hair Stories*, edited by Pamela Johnson and Juliette Harris. Among the other contributors were Henry Louis Gates Jr., Alice Walker and Toni Morrison. The anthology was critically acclaimed.

13. As the copyright page of the anthology records, Henson Scales retained her copyright in "Tenderheaded."

14. On May 2, 2012, Henson Scales registered her copyright in "Tenderheaded" at the U.S. Copyright Office (registration no. TX0007537915). A copy of the registration certificate is attached to this Complaint as Exhibit B.

2012: Webb Copies Parts of "Tenderheaded" Into Her Play *I Love My Hair*

15. At some point before March 2012, Webb obtained and read Henson Scales' essay "Tenderheaded."

16. On or about March 8, 2012, Webb completed a play entitled *I Love My Hair When It's Good: & Then Again When It Looks Defiant and Impressive*. A copy of the script is attached to this Complaint as Exhibit C.

17. Webb copied numerous passages of *I Love My Hair* directly from "Tenderheaded." The underlined words shown below were written by Henson Scales and copied by Webb.

a. Act I, Scene 1 / Genevieve: "It is this accidental embrace with Grandma . . . me between her legs, clasping her knees, facing out, a sotto voce hugging takes place, nice, if not wonderful."

b. Act I, Scene 6 / Genevieve: "Jack & Jill says that I have good hair. And I'm not allowed to be funny about it."

c. Act I, Scene 9 / Genevieve: "She weeps in the kitchen, the chemicals burning and itching my scalp . . ."

d. Act I, Scene 9 / Aunt Sandra: "Just ruining your beautiful hair. You know since you've started 'frying' your hair Genevieve, you'll never be able to stop!"

e. Act I, Scene 9 / Genevieve: "And I suddenly start noticing things about her, like how fat her behind looks as she walks away."

f. Act II, Scene 4 / Moni: "The Strongblackwoman's most striking characteristics are her gross displays of endurance and the absence of a personal agenda. The Strongblackwoman lives for, and sometimes through, others, and is culturally valued in direct proportion to her personal sacrifice. Strongblackwomen are the astronauts, the most right stuff of American martyrdom."

18. Every word of the last scene of *I Love My Hair* consists of unattributed excerpts from "Tenderheaded."

19. Webb also copied numerous plot elements of her play *I Love My Hair* from "Tenderheaded." As theater critic Byron Woods noted in the local newspaper *Indy Week*, "beyond the specific passages appropriated, several parallels appear in Henson Scales' and Webb's text. Both involve arduous, detailed accounts of girls' childhood hair care in

African-American families. In both texts, cousins are having their hair done by aunts. In both, one cousin is 'tenderheaded' and the other is not. In both accounts, one of the women doing the children's hair smokes Tareyton cigarettes. And in Webb's text, one cousin subsequently follows a path of self-sacrifice that Henson Scales overtly critiques in her text."

20. Webb did not seek Henson Scales' permission before she incorporated Henson Scales' work into her play.

21. On information and belief, Henson Scales was not the only writer whose work Webb plagiarized: she also copied an entire paragraph from Annabelle Baker's essay "Severed," and several phrases from Cynthia Colbert's poem "Hair (R)evolution." Both of these works appear in the anthology *Tenderheaded* alongside Henson Scales' essay.

22. Webb received several awards and grants for the development of *I Love My Hair*, including a Creation Fund Award from the National Performance Network, and an Ella Fountain Pratt Emerging Artists Grant from the Durham Arts Council with support from the North Carolina Arts Council.

23. In a 2012 email to Henson Scales, Webb described herself as "an emerging artist . . . with recent training in ways of devising work using found text." Henson Scales' essay is evidently one of the texts that Webb "found" and incorporated without attribution into her own work.

March 2012: *I Love My Hair* Is Performed at Manbites Dog Theater Company

24. Between March 8 and March 17, 2012, *I Love My Hair* was publicly performed at Manbites Dog Theater Company. Webb directed the play, and was credited as the sole author.

25. Tickets were sold to the public at the price of $17 for Friday and weekend showings, and $12 for Wednesday and Thursday showings. On information and belief, the entire run of *I Love My Hair* sold out; at least one further public performance was arranged at Manbites Dog, which also sold out.

26. On April 5, 2012, *I Love My Hair* was publicly performed in Boulder, Colorado.

27. On information and belief, Webb recorded her thanks to more than 160 people in a full page of the playbill. Henson Scales was not mentioned.

28. Webb organized an online marketing and fundraising campaign for the 2012 run of *I Love My Hair*. Her campaign's website offered a menu of donations in amounts ranging from $10 to $500. Webb raised at least $5,675 from her promotion of this work.

March 2012: After *I Love My Hair* Had Already Been Written and Performed, Webb Approaches Henson Scales for a License

29. On March 25, 2012, Webb emailed Henson Scales asking for permission to use extracts of "Tenderheaded." She wrote: "I really fell in love with your essay. . . I'd like to make some updates to my script to include excerpts from your article."

30. Webb's email implied that she wished to include excerpts from

“Tenderheaded” in the script of *I Love My Hair*, but had not yet done so.

31. Webb’s email was deliberately misleading. By March 25, 2012, Webb had already “updated” her script to include numerous unattributed excerpts from “Tenderheaded.” Over several evenings that very month, these excerpts had been performed in front of sell-out crowds, who applauded Webb’s final scene without knowing that it consisted entirely of Henson Scales’ words.

32. Webb was, in effect, asking Henson Scales for a retrospective license without admitting that she had infringed Henson Scales’ work.

33. Henson Scales did not grant a license, and when she realized that Webb had already used her work without permission or acknowledgement, she instructed Webb to cease her infringement.

34. In later correspondence with Henson Scales’ counsel, Webb admitted using Henson Scales’ work without permission, and promised to remove the phrases she copied from “Tenderheaded.”

May 2012: Webb Submits *I Love My Hair* to Naropa University As Her Own Work

35. In 2012, Webb was studying for a Master of Fine Arts degree in Theater and Contemporary Performance at Naropa University in Boulder, Colorado.

36. Webb developed the play *I Love My Hair* as part of a thesis portfolio, and in or around May 2012, she submitted *I Love My Hair*—including the parts copied from “Tenderheaded”—to Naropa University in fulfilment of the requirements for her Master of Fine Arts degree.

37. In 2012, Naropa University awarded Webb a Master of Fine Arts degree.

38. Universities typically require students to declare that the creative writing that they submit for credit is their own work and not copied from other sources without attribution.

39. It is doubtful that Naropa University would have awarded Webb a Master of Fine Arts degree had she not represented to the University that *I Love My Hair* was her own work, or had she admitted copying passages from "Tenderheaded."

40. In June 2012, Henson Scales sought a copy of Webb's thesis portfolio from Naropa University, concerned that it might incorporate her copyrighted work without attribution. She discovered that Webb had instructed the University not to give her access to the thesis portfolio.

41. On her website and elsewhere, Webb prominently advertises her Master of Fine Arts degree. The prestige of a master's degree enhances Webb's career prospects as a writer, actor, director and theater instructor.

2014: Revival of *I Love My Hair* Is Performed at Manbites Dog Theater Company

42. Between January 17 and February 1, 2014, *I Love My Hair* was publicly performed at Manbites Dog Theater Company. Webb again directed the play.

43. Tickets were sold to the public at the price of $25 for the opening night, $18 for Friday and weekend showings, and $12 for other showings. On information and belief, several showings of *I Love My Hair* sold out; at least two further public performances were arranged at Manbites Dog, which also sold out.

CAUSE OF ACTION

Copyright Infringement (17 U.S.C. § 501, *et seq.*)

44. Henson Scales repeats and realleges the allegations contained in Paragraphs 1 through 36 as if fully set forth herein.

45. Henson Scales holds a valid, registered copyright to the essay "Tenderheaded."

46. "Tenderheaded" is a original work of authorship warranting protection under the Copyright Act.

47. Webb knew or should have known that "Tenderheaded" was an original work to which she did not own the copyright.

48. Webb intentionally copied protected expressions of the "Tenderheaded" work in her play *I Love My Hair*.

49. Webb infringed Henson Scales' copyright in "Tenderheaded" by (1) reproducing her play *I Love My Hair*; (2) preparing *I Love My Hair*, a derivative work based on "Tenderheaded"; (3) publicly performing her play *I Love My Hair*.

50. Manbites Dog infringed Henson Scales' copyright in "Tenderheaded" by publicly performing the play *I Love My Hair*.

51. Defendants' infringing acts have caused and continue to cause irreparable harm to Henson Scales.

JURY TRIAL DEMAND

Plaintiff Meg Henson Scales demands a trial by jury.

PRAYER FOR RELIEF

Plaintiff Meg Henson Scales requests a judgment against Defendants as follows:

a. Ruling that Defendants have wilfully infringed on Henson Scales' copyright in "Tenderheaded";

b. Awarding injunctive relief that Defendants immediately cease and desist infringing on Henson Scales' copyright in "Tenderheaded";

c. Awarding Henson Scales statutory damages for each infringement, or in the alternative, actual damages in an amount to be determined at trial;

d. Awarding Henson Scales disgorgement of Defendants' profits attributable to their infringements, including indirect and nonmonetary profits, in an amount to be determined at trial;

e. For prejudgment and postjudgment interest;

f. For Henson Scales' costs and attorney's fees; and

g. For such other relief as the Court deems just and proper.

Dated: March 3, 2015

Respectfully submitted,

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